UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,860	10/02/2003	Bernd Greifeneder	BOR-163	2441

64107 7590 09/16/2009

KOKKA & BACKUS, PC
200 PAGE MILL ROAD
SUITE 103
PALO ALTO, CA 94306

EXAMINER	
SAEED, USMAAN	
ART UNIT	PAPER NUMBER
2166	
MAIL DATE	DELIVERY MODE
09/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/678,860	GREIFENEDER ET AL.	
	Examiner	**Art Unit**	
	USMAAN SAEED	2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 June 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6-14,16 and 19-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-14, 16, 19-20 and 21-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Receipt of Applicant's Amendment, filed 06/11/2099 is acknowledged.

Claim 6 has been amended. Claims 1-5 are cancelled. Claims 21-26 have been newly added. Claims 6-14, 16, 19-20 and 21-26 are pending in this office action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6-14, 16, 19-20 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Masters et al**. (**Masters** hereinafter) (U.S. Patent No. 7,051,098) in view of **Reps et al.** (**Reps** hereinafter) (U. S. Patent No. 6,070,190).

As to claim 6, Masters discloses a method for automated detection of monitoring data sources of at least one remotely located computer system, said method comprising:

providing a configuration containing instructions to query at least one of said at least one remotely located computer system (See Masters, Figure 1, Col 1, Lines 24-37), said configuration comprising a service tale identifying one or more services provided by the remotely located computer systems that are useable to monitor said at least one computer system (See Masters, column 47, lines 11-25, and see column 31, lines 1-10, service appears to broadly described in the specification and may not even exist for some sources, therefore, it is broadly interpreted to be any broad functionality, wherein the recitation of “that are useable” should be deleted since it provides an intended use instead of the actually functionality of "to monitor"), the service being non-monitoring specific and the remotely located computer systems absent the monitoring computer program (See Maters, column 10, lines 20-39, wherein “host monitors collect statistics about remotely located files systems etc.”), a detection table identifying information to detect at least one for the monitoring data sources (See Masters, column 46, lines 29-39, wherein only “interested processes” are being tabled by the detecting host monitor), and a metric table identifying a metric for the at least one of the monitoring data sources (See Masters, column 13, lines 18-24, wherein any collected metric is stored and thus placed in a table);

providing a data detection module (See Masters, column 7, lines 33-55) configured to generate multiple service probe requests to detect configured to identify different services at two or more remotely-located computer system that are unidentified (See Masters, column 11, lines 30-50);

identifying, by said data detection module using said configuration, accessible data sources of at least one of said at least one computer system, the accessible data sources being different from that at another computer system (See Masters column 9, lines 27-35, and see column 19, lines 1-19);

using subset of metric requests to collect from at least one of said computer systems meta and performance information of said accessible data sources of at least one of said at least one computer system (See Masters, Figure 10A, shows meta and performance data), the meta and performance information comprising a response from at least one of the services provided by the remotely located computers systems (See Masters, column 47 lines 11-25);

presenting said meta and performance information to a user (See Masters, Figure 5A); and

presenting a list of said identified accessible data resources to said user (See Masters, column 10, lines 40-52, and see column 11, lines 31-50).

Masters teaches SNMP calls and ICMP ping calls but does not explicitly teaches “whereby one subset of the metric probe request is based on identification of the at least one of the services and another subset of the metric probe requests is based on identification of another one of the services.”

However, Reps teaches whereby one subset of the metric probe request is based on identification of the at least one of the services and another subset of the metric probe requests is based on identification of another one of the services (See Reps, Abstract and column 5, lines 24-30, and Figure 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of the cited references because Reps’s teaching would have allowed Masters to provide techniques for monitoring, reporting and for generating performance-based alert signals, based upon the performance of application services from an application program residing on a server computer coupled to a client computer system in a distributed computing environment.

As to claim 7, Masters as modified discloses comprising the step of:

receiving access information from said user, wherein said access information comprises one member of the group consisting of a username and a password (See Masters, column 15, lines 55-56).

As to claim 8, Masters as modified discloses comprising the steps of:

receiving a list of data sources chosen by said user (See Masters, Figure 10A, shows meta and performance data for user selected data sources);

extracting said meta and performance data from said chosen data sources (See Masters, Figure 10A, shows meta and performance data); and

presenting said meta and performance data to said user (See Masters, Figure 10A, shows meta and performance data).

As to claim 9, Masters as modified discloses comprising the step of:

utilizing a probe engine to verify whether a service of one of said at least one computer system is responding determining said meta and performance data of an environment in which said service is running, in response to said probe engine verifying said service is running (See Masters, column 11, lines 47-50, and see column 19, lines 4-24).

As to claim 10, Masters as modified discloses wherein the service probing step is performed for each service of said at least one computer system (See Masters, Figure 5A, and see column 10, lines 40-53, wherein due to the lack of description of what service type is, its hard to attribute service type).

As to claim 11, Masters as modified discloses comprising the step of:

utilizing said probe engine to identify at least one monitoring information source in said at least one computer system and stores said monitoring information source in a list of said at least one identified monitoring information sources (See Masters, column 24, lines 17-29, wherein “probe” is read on “agent”).

As to claim 12, Masters as modified discloses wherein the monitoring information source probing step utilizes the probe engine to identify the monitoring information source and storing the monitoring information source in the list of detected monitored information sources are performed for each monitoring information source of said at least one computer system (See Masters, column 20, lines 1-10).

As to claim 13, Masters as modified discloses comprising the step of:

utilizing said probe engine to determine a metric associated with each of said monitoring information sources (See Masters, Figure 10A, shows meta and performance data).

As to claim 14, Masters as modified discloses wherein said meta information comprises set-up information of said at least one computer system (See Masters, Figure 10A, shows meta and performance data).

As to claim 16, Masters as modified discloses wherein said list receiving step comprises receiving a range of data sources of said network environment, said range being specified by said user (See Masters, column 49, lines 8-26).

As to claim 19, Masters as modified discloses wherein each of said services identified in said service table are associated with a service type, the method further comprising the step of activating a probe engine according to at least one service type, wherein the probe engine probes a monitoring information service to monitor information of the computer system (See Masters, column 25, lines 24-45, wherein "service type" is read on applications "specific to host system").

As to claim 20, Masters as modified discloses wherein the step of collecting meta and performance further comprises populating the list of the accessible data sources, wherein the list of the accessible data sources is initially empty (See Masters, column 24, lines 45-66, wherein "empty" reads on "user controlled" and can be populated according to modification made to the configuration).

As to claim 21, Masters discloses an apparatus for detecting and monitoring data sources, the apparatus comprising:

a computer having a processor and a memory configured to receive monitoring information from one or more remotely-located computer systems, the monitoring information concerning the operation of the one or more remotely-located computer systems (See Master, Abstract, Figure 1B, column 1, lines 24-37);

a computer-readable medium encoded with executable instructions configured to instruct the computer to: implement probe engines to generate probe requests that detect services, at least two probe engines being configured to identify different services at the one or more remotely-located computer systems that are unidentified (See Masters, column 47, lines 10-40 and column 11, lines 30-40);

transmit a first set of service probe requests and a second set of service probe requests via a network to detect whether a first service and a second service, respectively, are associated with the remotely-located computer systems (See Masters, column 11, lines 30-50);

identify that the first service and the second service are available at a first remotely-located computer system and a second remotely-located computer system, respectively (See Masters, column 13, lines 5-11, examiner interprets daemons on each host as services);

transmit a first set of metric probe requests and a second set of metric probe requests to the first service and the second service, respectively, to determine a first set of metrics and a second set of metrics, the transmission of the first set of metric probe requests and a second set of metric probe requests is based on responses generated by the first set of service probe requests and the second set of service probe requests systems (See Masters, column 13, lines 18-24, column 47 lines 11-25, column 4, lines 8-30);

generate data to present representation of the first set of metrics and the second set of metrics via a graphical user interface (See Masters, Figure 5A-5B, 9A-9B).

Masters teaches the elements of claim 21 as noted above but does not explicitly discloses identifying different services at one or more remotely located computer system, and detecting a first service and second service associated with the remotely located computer system.

However, Reps teaches identifying different services at one or more remotely located computer system, and detecting a first service and second service associated with the remotely located computer system (See Reps, Abstract and column 5, lines 24-30, column 10, lines 29-51, and Figure 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of the cited references because Reps's teaching would have allowed Masters to provide techniques for monitoring, reporting and for generating performance-based alert signals, based upon the performance of application services from an application program residing on a server computer coupled to a client computer system in a distributed computing environment.

As to claim 22, Master as modified teaches wherein the first service and the second service are different services (See Reps, column 10, lines 29-51).

As to claim 23, Masters as modified teaches wherein at least one metric probe request from both the first set of metric probe requests and the second set of metric probe requests is transmitted to both the first service and the second service (See Masters column 13, lines 5-17 and Reps Abstract and column 8, lines 38-64).

As to claim 24, Masters as modified teaches wherein the computer-readable medium encoded with executables instructions further comprises executable instructions to:

transmit sets of service probe requests including the first set of service probe requests and the second set of service probe requests to detect services in the remotely-located computer systems (See Master Abstract and column 9, lines 27-35, and Reps Abstract);

transmit a number of monitoring information source ("MIS") probe requests for each of the services that causes responses to the sets of service probe to detect a subset of MISs (Reps Abstract and column 9, lines 59-67);

associate each MIS of the subset of MISs with one of the services to form an association that is stored in a MIS detectable table (See Masters, Abstract, Figure 5A-5B, 9A-9B),

wherein the MIS detectable table includes data from different services (See Masters, Abstract, Figures 5A-5B, 9A-9B).

As to claim 25, Masters as modified teaches wherein the computer-readable medium encoded with executables instructions further comprises executable instructions to:

transmit sets of metric probe requests for each of the MISs that causes a response to the number of MIS probe requests, the sets of metric probe requests including the first set of metric probe requests and the second set of metric probe requests to detect metrics in the remotely- located computer systems (See Master Abstract and column 9, lines 27-35, and Reps Abstract);

detect a subset of metrics; and associate each metric of the subset of metrics with one of the MISs to form an association that is stored in a metric table, wherein the MIS detectable table includes data from the different services, (See Master Abstract and column 9, lines 27-35, and Reps Abstract and column 5, lines 24-30, column 10, lines 29-51);

wherein the first set of metric probe requests is a function of the first set of service probe requests and the second set of metric probe requests is a function of the second set of service probe requests (See Master Abstract and column 9, lines 27-35, and column 11, lines 30-50 and Reps Abstract and column 5, lines 24-30, column 10, lines 29-51).

As to claim 26, Masters as modified teaches wherein the computer-readable medium encoded with executables instructions configured to identify that the first service and the second service are available for the first remotely-located computer system and the second remotely-located computer system, respectively, comprises executable instructions to:

determine that one of the first service and the second service is a command line-based service (See Masters column 21, lines 60-67);

determine that other of the first service and the second service is a graphical user interface ("GUI")-based service (See Reps Figure 2).

Response to Arguments

3. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

In these arguments applicant relies on the amended and new claims and not on the original ones.

See above rejections for response to arguments.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to USMAAN SAEED whose telephone number is (571)272-4046. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571)272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Usmaan Saeed/
Examiner, Art Unit 2166
September 13, 2009

Usmaan Saeed
Patent Examiner
Art Unit: 2166

/Hosain T Alam/
Supervisory Patent Examiner, Art Unit 2166